THE THIRD DAY.

Wednesday, the 4th March 1931.

The Assembly met again at 11-30 A. M. on the 4th March 1931, the Dewan presiding.

28. Judicial Administration.

MR. KESAVA MENON GOVINDA MENON (*Ambalapuzha taluk, Group II*) first spoke about the delay which the course of litigation was subjected to, which he attributed to the insufficiency in the number of the existing courts, as well as to the economic condition of the people, the increasing tide of litigation, the incapacity of the presiding officers and the obstructive tactics adopted by the people to protract litigation. The committee appointed to go into the question of law's delays had not done anything yet, though the time alloted for the work had expired. There was extraordinary delay in the service of processes. The process servers, who were illiterate, unscrupulous and avaricious, were a menace to the public. They easily played into the hands of the acute litigants, who desired to prolong the litigation with a view to tire the patience of their opponents and to put them to unnecessary loss of money. Corruption had become rampant, and it was common notoriety that, to get a process served, the process server had to be bribed. The presiding officers were not able to deal with the evils effectively owing to the unnecessary interference of the superior courts in the internal administration of the lower courts. Full and unfettered discretion ought to be given to the officers who had to exercise immediate supervision over these men. The surprise inspections of the lower courts conducted by the High Court, on anonymous petitions about the conduct of presiding officers, from discontented litigants, were undesirable and should be condemned and discouraged, as they were quite derogatory to the prestige of the subordinate officers and as they lowered them in the estimation of the public. In the interests of justice and public welfare, all officers of the judiciary should be above suspicion; and if, in the opinion of the High Court, the conduct of an officer was found suspicious, a public enquiry, as contemplated by the rules of the department, should be instituted; and if found guilty, the officer should be summarily dismissed from service.

Recruitment to the judiciary should not be on communal basis. Efficiency should be the criterion. The present system of recruiting Munsiffs and Magistrates from the clerical staff of the High Court and the Secretariat should be discouraged, inasmuch as these men lack a fair knowledge of the common law, the procedure law and the customs and practice in courts. These men, before they are called upon to administer justice, should be trained for it. They must undergo some training which would make them fit for the work.

The insistence by the High Court that a presiding officer should dispose of in every month a minimum number of cases was indirectly helping law's delays and also causing considerable hardship to the litigant public. To satisfy this rule, the presiding officers, especially the Munsiffs, selected only simple cases, postponing all tough cases. In their anxiety to get at the minimum number, these officers forgot all considerations of fairness and justice; applications for time, for steps or for other reasons, were rejected and ill-considered, erroneous and hasty judgements were pronounced. As a result, the plaintiffs and defendants and sometimes the witnesses also had to prefer appeals thus increasing the work of the appellate courts. The High Court should insist more upon the quality of the judgement than its quantity.

The public were losing confidence in the existing system of administration of justice. Complaints against judicial officers were of every day occurrence. Even the High Court was not free from such complaints. There was a pamphlet containing allegations of communal bias, gross partiality, etc., in matters of postings of cases and of appointments. But the High Court took no steps to bring the culprits to book. In the matter of engagements, the litigants showed unhealthy preference based on such erroneous notions of communal bias. In making appointments most of the presiding officers were clannish. Legitimate claims of deserving candidates were overlooked, raw hands, belonging to the denomination to which the officer belonged, being preferred Even in the High Court this unhealthy and disgraceful state of affairs existed.

For an unhampered and free administration of justice, the judiciary must be independent of the executive. In Travancore, the judiciary was a mere creature and a tool in the hands of the Government.

The High Court at times assumed the powers of the Legislature by curious interpretations of law and Government did not interfer.

In the interests of public welfare and to ensure the growth of a free independent judiciary, no officer of the department should aspire to get into the executive line. No judicial officer should be appointed as the head of the administration and no Puisne Judge of the High Court should be promoted as Chief Justice. With an independent and a more efficient well regulated and reorganised judiciary, the heavy arreares that had already accumulated could be wiped away.

DEWAN'S REPLY: Mr. Govinda Menon. Many of the points that you have raised now would, I dare say, be considered by the Law's Delays Commissioner who is going into the question of delay in the disposal of civil litigation and incidentally of any reforms that might be required in the present methods of recruitment to judicial appointments. Your criticism on some of the actions of the High Court and subordinate courts, as one who has listened to your address patiently must say, has been mostly one-sided. For instance, in the matter of surprise visits by the High Court Judges to the subordinate courts, in the matter of the minimum fixed for disposal by subordinate courts, it is

perhaps easy to say that it should not be done or it is essential and should be done. But I do not think any hasty conclusion, one way or the other, is likely to be either wise or useful. The same might be said of your statements about the superior officers. You complain that Judges of the High Court interfere with the actions of the officers of lower courts. It is not in this department alone that we have appeals and revision petitions against orders passed by subordinate authorities in respect of administrative or extra-judicial matters. I do not think that the abolition of appeal or revision petitions in this department would be welcomed by the people who are likely to suffer by that. The other points you have raised are noted.

29. Matters relating to Jenmies and Kudiyans.

MR. CHINGAN NARAYANAN BHATTATIRI (*Jenmies, Quilon Division*) speaking in Malayalam, first requested the Dewan to convey to Her Highness the Maha Rani Regent the feelings of gratitude of his community for the enactment of the Malayala Brahmin Regulation.

Passing on to his subject, he said that Government should see that the Jenmi-Kudiyan Amendment Bill, introduced in the Council by the Government and now under the consideration of a select committee, was beneficial both to the *Jenmies* and the *Kudiyans*. The enactments of 1042 and 1071 were unfavourable to the *Jenmies* and subjected them to great loss and inconveniences. The Government should see that similar hardships were not caused to them by the present legislation also. In conclusion, the member requested that the matter should be expedited and the Bill passed into law at an early date.

DEWAN'S RPELY: മലയാളബ്രാഹ്മണ റഗുലേഷൻ നടപ്പാക്കിയതിനേപ്പറ്റി മഹാറാണിറീജൻറു തിരുമനസ്സിലേക്ക് നിങ്ങളുടെ സമുദായത്തിനുള്ള കൃതജ്ഞതയെ നിങ്ങൾ പ്രദർശിപ്പിച്ചതു് സന്തോഷപൂർവ്വം തിരുമനസ്സറിയിക്കാം. വളരെനാളായി, ഇങ്ങിനെ ഒരു റഗുലേഷൻ ഉണ്ടായാൽകൊള്ളാമെന്ന് നിങ്ങളുടെ സമുദയത്തിലുള്ള ഒട്ടുവളരെ ആളുകൾക്ക് ആഗ്രഹം ഉണ്ടായിരുന്നു. അതു് ഇപ്പോൾ നിറവേറുകയും ചെയ്തു. ഈ റഗുലേഷൻ കൊണ്ടു്, എത്രയൊ പഴക്കമുള്ളതും കേരളത്തിൽ പ്രാധാന്യമുള്ളതുമായ നിങ്ങളുടെ സമുദായത്തിന്നു് മേല്ക്കുമേൽ അഭിവൃദ്ധിയുണ്ടാകുമെന്നു് നമുക്കാശിക്കാം.

പിന്നീടു് ജന്മികുടിയാൻ റഗുലേഷനെപ്പറ്റി നിങ്ങൾ പറഞ്ഞു. അതിലേക്ക് ഒരു ബിൽ തയ്യാറാക്കി, ഇപ്പോൾ അതു് സിലക്ടു കമ്മിറ്റിയുടെവിചാരണയിൽ ഇരിക്കുകയാണു്. ആ ബിൽ നിയമസഭയിൽവന്നു് വാദപ്രതിവാദം നടത്തുമ്പോൾ ഈ കാര്യങ്ങളെല്ലാം നിങ്ങളുടെ പ്രതിനിധി മുഖാന്തിരം അവിടെ വാദിക്കാം.